



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9A – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

85-984

Provided by DEP

A. Violation Information

This Enforcement Order is issued by:

ACTON

Conservation Commission (Issuing Authority)

February 26, 2008

Date

To:

Steven W. Kelley & Rachel K. Kelley

Name of Violator

70 Newtown Road, Acton

Address

1. Location of Violation:

Steven W. Kelley & Rachel K. Kelley

Property Owner (if different)

70 Newtown Road

Street Address

Acton

City/Town

E-3

Assessors Map/Plat Number

01720

Zip Code

82

Parcel/Lot Number

2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Extensive tree cutting within 100' of a Bordering Vegetated Wetland; action is in violation of existing Order of Conditions issued on December 12, 2007, tree cutting is not authorized in the Order of Conditions, no request was made of the Conservation Commission or the Conservation Administrator, and the cutting of approximately 20 mature trees occurred not only in the wetland buffer zone, but in an area specifically prescribed in the Order of Conditions and in a deed restriction recorded in the Middlesex County Registry of Deeds as a permanent area of no disturbance.

B. Findings

The Issuing Authority has determined that the activity described above is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

☒ the activity has been/is being conducted without a valid Order of Conditions.

☒ the activity has been/is being conducted in violation of the Order of Conditions issued to:

Steven W. Kelley & Rachel K. Kelley

Name

85-984

File Number

December 12, 2007

Dated

1, 9, 12, 13, 16,

Condition number(s)

B. Findings (cont.)

☒ Other (specify):

Acton Wetland Protection Bylaw, Chapter F: Condition Nos. 18, 22, 25, 31, 35, 41 and

Special Condition 3.

C. Order

The issuing authority hereby orders the following (check all that apply):

- ☒ The property owner, his agents, permittees, and all others shall immediately cease and desist from the further activity affecting the Buffer Zone and/or wetland resource areas on this property.
- ☐ Wetland alterations resulting from said activity should be corrected and the site returned to its original condition.
- ☐ Complete the attached Notice of Intent. The completed application and plans for all proposed work as required by the Act and Regulations shall be filed with the Issuing Authority on or before

Date

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

☒ The property owner shall take the following action to prevent further violations of the Act:

Conservation Commission and an independent wetlands expert will re-inspect the property in the spring to assess the totality of the violation, and determine a mitigation plan, up to and including restoration, a permanent delineation of the no-disturb areas, and/or levying of fines, as provided for in the Town of Acton Wetlands By-Law, of \$10 per inch of circumference of the trees that were removed.

Until final determination by the Commission, no further disturbance is to occur in the wetland buffer zones, including that area identified on the June 27, 2001 plan as a "No Disturb" area. This includes, but is not limited to, no further cutting of trees, no planting of trees, no removal or grinding of stumps, no filling with clean fill or yard waste, no use of herbicides or pesticides.

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Tom Tidman, Natural Resources Director

Name

978 264 9631

Phone Number

8 - 5

Hours/Days Available

Issued by:

ACTON

Conservation Commission

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

Terrence Mauttand

Signature of delivery person or certified mail number